REMARKS

I. Summary of the Office Action

   Claims 1-113 were pending in this case.

   Claims 1-7, 9-13, 15-16, 18-36, 38-43, 45-51, 53-57, 59-60, 62-72, 74-84, 86-90, 92-93, 95-98, 100-102, 104-109 and 111-112 were rejected under 35 U.S. C. 103(a) as being obvious from Graves et al. U.S. Patent No. 5,410,344 (hereinafter "Graves") in view of Roth U.S. Patent No. 6,583,797 (hereinafter "Roth").

   Claims 8, 14, 17, 37, 44, 52, 58, 61, 73, 85, 91, 94, 99, 103, 110 and 113 are rejected under 35 U.S. C. 103(a) as being obvious from Graves in view of Roth.

II. Summary of Applicants' Reply

   Applicants have amended claims 67 and 104 to more particularly define the claimed invention. No new matter has been added and the claim amendments are fully supported by the originally-filed application. See, e.g., applicants' specification at page 28, line 27 – page 29, line 25.

   Applicants respectfully traverse the Examiner's rejections.

III. Applicants' Response to the § 103 Rejections

   Claims 1-7, 9-13, 15-16, 18-36, 38-43, 45-51, 53-57, 59-60, 62-72, 74-84, 86-90, 92-93, 95-98, 100-102, 104-109 and 111-112 were rejected under 35 U.S. C. 103(a) as being unpatentable over Graves in view of Roth. Claims 8, 14, 17, 37, 44, 52, 58, 61, 73, 85, 91, 94, 99, 103, 110 and 113 were rejected under 35 U.S. C. 103(a) as being unpatentable over Graves in view of Roth.

A. Independent Claims 1 and 78

Applicants' amended independent claims 1 and 78 refer to an interactive television program guide system and method in which an interactive television program guide is at least partially implemented on user equipment. An option is provided for a user to select a programming theme from a list of programming themes and a level of interest in that programming theme. The list of programming themes is modified based on the selected theme and its selected level of interest.

For example, applicants' specification, page 13, line 32 – page 14, line 3 describe a typical theme as being a category or genre including, e.g., sports, children's programming, news, comedy and movies. Applicants' system enables, for example, a user to designate which themes are preferred or not preferred and display those themes based on the user's designated interest in those themes. Applicants' FIG. 4 illustrates a selection of a theme and a level of interest in that theme. In FIG. 4, step 46 shows the option of selecting a theme (such as a theme from a list of themes 101 in FIG. 3), step 48 shows designating that theme as a "favorite", and steps 50 and 52 show modifying the list of themes based on the designation of that theme.

Graves refers to systems and methods for selecting a subset of television programs, from a set of television programs, using attributes for the television program. Program attributes that affect a program viewer are stored in a viewer preference file. The degree with which these attributes impact the program viewer is set by the viewer. A subset of a set of programs are selected based on a comparison between the degree with which the attributes impact the viewer and the particular

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contents associated with each program in the set of programs. The selected subset of programs are stored in a preferred viewing file. FIG. 5 of Graves shows a viewer input mode for gathering viewer preference data after a particular program has been watched. The viewer is able answer each question in a set of questions (about various attributes) pertaining to the particular program by selecting the question and using a rating or grade between 1 and 10. For example, in FIG. 5, the viewer has adjusted the overall grade of a particular program to a rating of eight, the story appeal of the program to a rating of seven, the action level of the program to a rating of nine. If the viewer is greatly impacted by overall grade, story appeal, and action level of any program (based on information in the preferred viewing file), then the particular program would be selected as a program of interest to the viewer. (Graves, abstract, FIG. 5, and column 6, line 5 - column 7, line 4.)

Roth refers to a menu arrangement control system for use on a computer. The system allows menu items, pertaining to computer programs, to be ranked by a user. The menu items are arranged and displayed according to the rank given to the items by the user. FIGS. 11-12 of Roth show a dialog box which allows a user to assign a rank to a selected menu item in a list of menu items. (Roth, FIGS. 11-12 abstract, and column 15, line 60 - column 17 line 32.)

Applicants respectfully submit that Graves and Roth, whether taken alone or in combination, fail to show or suggest all of the elements of applicants' independent claims 1 and 78. In particular, these references do not show or suggest providing an option with the interactive television program guide for the user to select a programming theme from a list of programming themes and a level of interest in that selected programming

theme as recited by applicants independent claims 1 and 78. The
Examiner asserts that FIG. 5 of Graves shows this feature
(Office Action, page 3). However, contrary to the Examiner's
assertion, FIG. 5 of Graves, as discussed above, shows a screen
allowing a user to select a question pertaining to a particular
program and to answer the question using ratings between 1 and
10. Selecting a question pertaining to a particular program and
answering it using ratings is not the same as selecting a
programming theme from a list of programming themes and a level
of interest in that selected programming theme. Graves does not
show or suggest programming themes and therefore does not show
or suggest assigning program themes levels of interest.

Roth does not make up for this deficiency in Graves
relative to the rejection at least because Roth does not discuss
anything related to programming themes. Instead, Roth discusses
computer program menu items on a computer and not to any sort of
programming or any sort of television program guide system.

The Examiner contends that it would have been obvious
to a person of ordinary skill in the art to modify what the
Examiner alleges to be a list of ranked programming themes, as
taught by Graves, using what the Examiner alleges to be a
programming theme display ranking process, as taught by Roth, in
order to arrive at features recited by applicants' independent
claims. In particular the Examiner contends that this
modification would have been made for the purpose of providing
the improvement of instructing the menu management mechanism to
maintain a certain menu order within a given menu. (Office
Action, page 3.)

These contentions are incorrect since there is no
reason that would have prompted a person of ordinary skill in
the art to combine the teachings of ranking computer program

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menu items (Roth) and a list of questions related to a particular television program (Graves). Even if the combination is proper, the combined teaching of these references would only show using the computer program menu item ranking of Roth to reorder the television programming of Graves. Not only does this fail to show the claimed approach for modifying a list of programming themes, the combination merely substitutes Graves' approach for ranking programs of interest based on viewer selected attributes with Roth's manual ranking system. Various ways to rank programs is irrelevant to applicants claims.

Finally, even if Graves could somehow be modified while maintaining its principle of operation, one of ordinary skill in the art would not be motivated to combine Graves with Roth. While the Supreme Court, in <u>KSR Int'l Co. v. Teleflex Inc.</u>, determined that the teaching suggestion motivation ("TSM") test cannot be applied rigidly, the Court acknowledged that the TSM test captures a helpful insight and is one of a number of rationales that could be used to determine obviousness (KSR, 127 S. Ct. 1727, 1737 (2007)). Indeed, the present Office Action relies on this rationale. Here, however, one skilled in the art would not be motivated to combine Graves with Roth because the two references are directed to different fields. In particular, Graves refers to a television system that provides television programs that match user attributes. Roth, however, refers to a general purpose computer system. One skilled in the art would not be motivated to combine the teachings of these references from different fields. One skilled in the art would certainly not be motivated to combine these two teachings which do not relate in any way to program themes for the purpose of achieving applicants' claimed approach for modifying the order of themes.

Therefore, Graves and Roth, whether taken alone or in combination, fail to show or suggest all of the elements of applicants' independent claims 1 and 78.

Accordingly, because neither Graves nor Roth shows or renders obvious providing an option with the interactive television program guide for the user to select a programming theme from a list of programming themes and a level of interest in that selected programming theme, as set forth in applicants' claims 1 and 78, the rejection of these claims should be withdrawn. In addition, dependent claims 2, 5-7, 9, 10, 12-16, 18, 21, 79, 82-84, 86, 87, 89, 91-93, 95, 99, and 100 are allowable for at least the reason they depend from independent claims 1 or 78. Accordingly, the rejection of these claims should also be withdrawn.

B.   Independent Claim 36

Applicants' independent claim 36 refers to an interactive television program guide system in which an interactive television program guide is implemented on user equipment. The system provides an option for a user to select a plurality of favorite programming themes from a list of programming themes and displays the list of programming themes in which the selected programming themes are distinctively displayed. In applicants' claimed invention, a favorite programming theme is displayed distinctly (e.g., in a specific color) to set it apart from non-favorite or other programming themes. For example, as described in applicants' specification, "themes designated as favorites would be displayed in the selected color, and themes that the user has not selected will continue to be represented in a neutral color, such as white or black" (page 27, lines 14-17).

Applicants respectfully submit that Graves and Roth, whether taken alone or in combination, fail to show or suggest all of the elements of applicants' independent claim 36. In particular, these references do not show or suggest providing an option with an interactive television program guide for the user to select a plurality of favorite programming themes from a list of programming themes and displaying the list of programming themes in which the selected favorite programming themes are distinctively displayed as recited by applicants independent claim 36. The Examiner contends that FIG. 5 of Graves shows applicants' claimed feature of allowing a user to select a plurality of favorite programming themes (Office Action, page 3, page 8). Applicants respectfully disagree. As discussed above, with respect to claims 1 and 78, Graves does not show or suggest programming themes let alone selecting a plurality of favorite programming themes. In addition, the Examiner appears to assert that FIG. 5 of Graves shows applicants' claimed feature of displaying a list of programming themes in which the selected programming themes are distinctively displayed (Office Action, page 3, page 8). However, these assertions are unsubstantiated because merely displaying questions pertaining to a particular program is not the same as displaying the list of programming themes in which selected favorite programming themes are distinctively displayed, at least because the questions of Graves do not include programming themes.

Roth does not make up for these deficiencies of Graves relative to the rejection at least because Roth does not discuss programming themes. Instead Roth teaches displaying and ranking a set of computer program related menu items (Roth, FIGS. 11-12) which, as discussed above with respect to claims 1 and 78, is entirely different than allowing a user to select a plurality of

favorite programming themes from a list of programming themes.
In addition, there is no mention in Roth of distinctly
displaying any items, let alone programming themes.

Moreover, as demonstrated above, there is no reason
that would have prompted a person of ordinary skill in the art
to combine Graves and Roth in order to arrive at features
recited by applicants' independent claims. Therefore, Graves
and Roth, whether taken alone or in combination, fail to show or
suggest all of the elements of applicants' independent claim 36.

Accordingly, because neither Graves nor Roth shows or
renders obvious providing an option for a user to select a
plurality of favorite programming themes from the list of
programming themes and displaying the list of programming themes
in which the selected programming themes are distinctively
displayed, as set forth in applicants' claim 36, the rejection
of these claims should be withdrawn. In addition, dependent
claims 37-42 are allowable for at least the reason they depend
from independent claim 36, which is allowable. Accordingly, the
rejection of these claims should also be withdrawn.

C.   Independent Claims 67 and 104

Applicants' amended independent claims 67 and 104 are
directed to an interactive television program guide system and
method in which an interactive television program guide is at
least partially implemented on user equipment of a user. A
first list of programming themes is displayed. An option for
the user to select a programming theme from the first list of
programming themes and a level of interest in that selected
programming theme is provided. A second list of programming
themes based on the selected programming theme and level of
interest is displayed. The displaying of the first list of

programming themes and the second list of programming themes is alternated between.

Applicants respectfully submit that Graves and Roth, whether taken alone or in combination, fail to show or suggest all of the elements of applicants' independent claims 67 and 104. In particular, these references do not show or suggest providing an option with an interactive television program guide for the user to select a programming theme from a first list of programming themes and a level of interest in that selected programming theme, and alternating between displaying the first list of programming themes and the second list of programming themes (where the second list is based on the selected programming theme and level of interest) as recited by applicants' amended independent claims 67 and 104. Applicants respectfully submit that FIG. 5 and column 6, lines 5-52 of Graves do not show these features. As discussed above in connection with claims 1 and 78, Graves does not show or suggest programming themes or providing an option with an interactive television program guide for the user to select a programming theme from a list of programming themes and a level of interest in that selected programming theme.

In addition, Graves does not show or suggest alternating between displaying a first list of programming themes and a second list of programming themes. Instead Graves discusses altering a list of programs by adding a program with a grade that is larger than the program with the lowest grade on the list and then discarding the program with the lowest grade from the list (Graves, column 6, lines 5-52). This is not the same as alternating between displaying the first list of programming themes and the second list of programming themes (where the second list is based on the selected programming

theme and level of interest) at least because a program is not the same as a programming theme. Moreover, once the list of programs described in Graves, column 6, lines 5-52 is altered, it is not possible in Graves to alternate between displaying the list before it was altered and the list after it was altered.

Roth does not make up for the deficiencies of Graves relative to the rejection at least because Roth does not discuss programming themes. Instead, Roth teaches displaying and ranking a set of computer program related menu items (Roth, FIGS. 11-12) which, as discussed above with respect to claims 1 and 78, is entirely different than allowing a user to select a programming theme from a first list of programming themes and a level of interest in that selected programming theme. In addition, there is no mention in Roth of alternating between displaying two lists of items, let alone a first list of programming themes and a second list of programming themes.

Moreover, as demonstrated above, there is no reason that would have prompted a person of ordinary skill in the art to combine Graves and Roth in order to arrive at features recited by applicants' independent claims. Therefore, Graves and Roth, whether taken alone or in combination, fail to show or suggest all of the elements of applicants' amended independent claims 67 and 104.

Accordingly, because neither Graves nor Roth shows or renders obvious providing an option with an interactive television program guide for the user to select a programming theme from a first list of programming themes and a level of interest in that selected programming theme, and alternating between displaying the first list of programming themes and the second list of programming themes (where the second list is based on the selected programming theme and level of interest),

as set forth in applicants' claims 67 and 104, the rejection of these claims should be withdrawn. In addition, dependent claims 68-72, 74-77, 106-109, and 111 are allowable for at least the reason they depend from independent claims 67 or 104, which are allowable. Accordingly, the rejection of these claims should also be withdrawn.

D. Independent Claims 23, 30, and 43

Independent claims 23, 30 and 43 are directed to interactive television program guide systems in which an interactive program guide is at least partially implemented on user equipment. An option with the interactive program guide for a user to select a theme and indicate a level of interest (e.g., a high level of interest such as a favorite or a low level of interest) in that theme is provided. An action (e.g., display a modified list of programming themes or stores the user's indicated interest in the selected theme in a preference profile) is performed based on the user's interest in the selected themes.

Applicants respectfully submit that Graves and Roth, whether taken alone or in combination, fail to show or suggest all of the elements of applicants' independent claims 23, 30, and 43. In particular, Graves and Roth, alone or in combination, do not show or suggest providing an option with an interactive television program guide for the user to select: a favorite programming theme from a list of programming themes (claim 23), a programming theme for which the user has a low level of interest from a list of programming themes (claim 30), or a programming theme from a list of programming themes and a level of interest in that selected programming theme (claim 43), as recited by applicants independent claims 23, 30, and 43. The

Examiner contends that FIG. 5 of Graves shows these features (Office Action, page 3, pages 7-8). Applicants respectfully disagree. As discussed above with respect to claims 1 and 78, Graves does not show or suggest programming themes let alone selecting a programming theme.

Roth does not make up for these deficiencies in Graves relative to the rejection at least because Roth does not discuss programming themes. Instead, Roth discusses computer program menu items on a computer and not to any sort of programming or any sort of television program guide system.

Moreover, as demonstrated above, there is no reason that would have prompted a person of ordinary skill in the art to combine Graves and Roth in order to arrive at features recited by applicants' independent claims. Therefore, Graves and Roth, whether taken alone or in combination, fail to show or suggest all of the elements of applicants' independent claims 23, 30, and 43.

Accordingly, because neither Graves nor Roth shows or renders obvious providing an option with an interactive television program guide for the user to select: a favorite programming theme from a list of programming themes (claim 23), a programming theme for which the user has a low level of interest from a list of programming themes (claim 30), or a programming theme from a list of programming themes and a level of interest in that selected programming theme (claim 43), as set forth in applicants' claims 23, 30 and 43, the rejection of these claims should be withdrawn. In addition, dependent claims 24-29, 31-35, and 44-66 are allowable for at least the reason they depend from independent claims 23, 30, or 43, which are allowable. Accordingly, the rejection of these claims should also be withdrawn.

IV. Conclusion

For at least the reasons set forth above, applicants respectfully submit that this application is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,

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